

fice, which was administered to her by Chief Justice Cureton, and she affixed her signature to the official oath, Chief Justice Cureton attesting same with the great seal of the Commonwealth of Texas.

Speaker Stevenson presented Hon. T. H. McGregor, who in turn introduced the Hon. Miriam A. Ferguson, Governor.

Governor Ferguson addressed the Joint Session and the assemblage.

On motion of Senator Sanderford, the Senate, at 12:30 o'clock p. m., retired to the Senate Chamber.

In Session.

The Senate returned to the Senate Chamber at 12:30 o'clock p. m. and was called to order by President Pro Tem. Walter Woodul.

Adjournment.

Senator Oneal moved to adjourn until 2 o'clock p. m. tomorrow.

Senator Purl moved as a substitute that the Senate adjourn until 10 o'clock Thursday morning. The substitute motion was lost.

The original motion prevailed and at 12:38 o'clock p. m. the Senate adjourned.

APPENDIX.

Committee on Enrolled Bills.

Committee Room,
Austin, Texas, Jan. 16, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills have had Senate Concurrent Resolution No. 3 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee on Engrossed Bills.

Committee Room,
Austin, Texas, Jan. 16, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Concurrent Resolution No. 5 carefully examined and compared and find same correctly engrossed.

REAGAN, Chairman.

SIXTH DAY.

Senate Chamber,
Austin, Texas,
January 18, 1933.

The Senate met at 2 o'clock, p. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Pace.
Blackert.	Parr.
Collie.	Patton.
Cousins.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

Absent—Excused.

Greer.

Prayer by the Chaplin.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Rawlings.

Petitions and Memorials.

(See Appendix.)

Bills and Resolutions.

By Senator Moore:

S. B. No. 35, A bill to be entitled "An Act amending Article 3118 by adding to it Article 3118-A, providing that the county executive committee of any political party shall require a bond of the county chairman or of the secretary, prescribing the conditions and amount thereof, for the recovery thereon; for the paying of the fees therefor, and declaring an emergency."

Read and referred to Committee on Privileges and Elections.

By Senator Moore:

S. B. No. 36, A bill to be entitled "An Act declaring the policy of the State of Texas on production of cotton of less than 5-8 inch staple; providing for penalties; providing for payment of such penalties;

requiring report of producers and ginnerers of cotton of less than 5-8 inch staple; making the producers of such cotton and owners of gins liable to civil action for failure to report any such cotton ginned, and prescribing the duties; providing penalties, and declaring an emergency."

Read and referred to Committee on Criminal Jurisprudence.

By Senator Moore:

S. B. No. 37, A bill to be entitled "An Act prohibiting any judge or officer of an election from betting or wagering on the election or nomination of any person; prohibiting betting or wagering on the number of votes polled or cast, or to be polled or cast in the precinct or voting box in which any officer is serving in certain cases; prescribing offenses and punishment; and declaring an emergency."

Read and referred to Committee on Criminal Jurisprudence.

By Senator Moore:

S. B. No. 38, A bill to be entitled "An Act amending Article 2956, by adding thereto another section, Article 2956-A providing that persons who are feeble, ill and confined in bed or confined to their places of abode by reason of illness, may vote as absentees may vote under Article 2956; providing that persons who are ill, aged or decrepit, and who are unable to walk to the polls, may be driven in any vehicle, wheel chair or other conveyance to such voting place, and any election officer shall authorize such person to vote, and the means and manner thereof; providing exceptions, and for the general enforcement of the provisions hereof; and declaring an emergency."

Read and referred to Committee on Privileges and Elections.

By Senator Moore:

S. B. No. 39, A bill to be entitled "An Act defining primary and secondary highways; designating highways so defined, directing the State Highway Commission to complete construction of said designated highways in their order; limiting the designation of primary and secondary highways; and declaring an emergency."

Read and referred to Committee on State Highways and Motor Traffic.

By Senator Duggan:

S. B. No. 40, A bill to be entitled "An Act to declare a closed season on the killing of blue quail, bob whites and doves in Yoakum County for a period of five years, prescribing a penalty therefor, and declaring an emergency."

Read and referred to Committee on State Affairs.

By Senator Duggan:

S. B. No. 41, A bill to be entitled "An Act amending Senate Bill No. 41, First Called Session of the Forty-second Legislature, Chapter 20, and declaring an emergency."

Read and referred to Committee on Educational Affairs.

By Senator Duggan:

S. B. No. 42, A bill to be entitled "An Act amending Article 2691 Revised Statutes of Texas, 1925, and declaring an emergency."

Read and referred to Committee on Educational Affairs.

By Senator Duggan:

S. B. No. 43, A bill to be entitled "An Act amending Article 2692 Revised Statutes of Texas, 1925, repealing all laws in conflict herewith and declaring an emergency."

Read and referred to Committee on Educational Affairs.

By Senator Poage:

S. B. No. 44, A bill to be entitled "An Act authorizing cities and towns to create appraisal boards for the purpose of valuing property within the limits of cities and towns for fire insurance purposes, and providing that where cities and towns acting under such authority create such board, then no fire insurance policy shall be issued upon property within such city or town without obtaining a certificate of valuation from the board, and providing further that in the event fire insurance in excess of the value fixed by said board is placed upon any property and such property is destroyed or damaged, no loss resulting therefrom shall be taken into consideration in fixing fire insurance rates or determining insurance penalties to be assessed against such cities and towns."

Read and referred to Committee on Towns and City Corporations.

By Senator Poage:

S. B. No. 45, A bill to be entitled "An Act adding two new sections to Article 7174 of the Revised Civil Statutes of 1925 and providing that the owner of any real estate in this State may file with the Tax Assessor a statement describing any liens thereon and that thereupon such owner shall be taxed only upon the equity owned in said real estate and repealing all laws and parts of laws in conflict."

Read and referred to Committee on State Affairs.

By Senator Poage:

S. B. No. 46, A bill to be entitled "An Act providing a five-year period of limitation for all suits involving the recovery of mineral rights ownership of which has been segregated from the ownership of the surface, and providing that the owner and holder of the surface shall in such cases be considered to be in adverse possession of said mineral rights against the owner thereof and providing that the provisions of this Act shall not be applicable in certain instances."

Read and referred to Committee on Mining, Irrigation and Drainage.

Senators Excused.

On motion of Senator Hornsby, Senator Greer was excused for the day on account of sickness in his family.

Senate Simple Resolution No. 19.

Senator Parr sent up the following resolution:

Whereas, S. C. R. No. 5, passed the Senate on January 16, 1933; and

Whereas, The salary for certain Senators was fixed at a sum less than the per diem pay of the majority of the membership of this Senate; therefore be it

Resolved, That the House be requested to return S. C. R. No. 5, to the Senate for further consideration.

PARR.

Read and lost by the following vote:

Yeas—11.

Cousins.	Patton.
Fellbaum.	Russek.
Martin.	Sanderford.
Moore.	Woodruff.
Murphy.	Woodul.
Parr.	

Nays—13.

Blackert.	Oneal.
Collie.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Holbrook.	Redditt.
Hornsby.	Stone.
Neal.	

Present—Not Voting.

Pace.

Absent.

Beck.	Small.
Hopkins.	Woodward.
Regan.	

Absent—Excused.

Greer.

Senator Redditt Added to Committee.

The Chair announced the addition of Senator Redditt to the Committee on Congressional Districts.

Messages From the Governor.

Executive Department,
Austin, Texas, Jan. 18, 1933.

To the Texas State Senate:

I respectfully request the withdrawal of the following appointments submitted to you on January 11th:

As members of the State Board of Education for the next ensuing statutory terms, reappointed to succeed themselves, respectively:

Hon. B. F. Tisinger of Garland, Texas.

Hon. C. H. Chernosky of Houston, Texas.

Hon. Tom Garrard of Lubbock, Texas.

Respectfully submitted,
MIRIAM A. FERGUSON,
Governor.

The message was read.

Senator Purl sent up the following written point of order:

I raise the point of order that the present Governor of Texas does not have the power to withdraw the appointments or nominations of another Governor that have been lawfully appointed without the consent of the Senate.

PURL.

Senator Neal raised the point of order that this point of order and

further discussion of the matter were out of order because the message must first be referred to the Committee on Governor's Nominations.

The Chair, Lieutenant Governor Edgar E. Witt, sustained the point of order.

The message was referred to the Committee on Governor's Nominations.

Executive Department,
Austin, Texas, Jan. 18, 1933.
To the Texas State Senate:

I ask the advice and confirmation of the Senate in the appointment of the following:

W. W. Heath of Grimes County, to be Secretary of State.

General Henry Hutchings of Tarrant County to be Adjutant General.

Leo Callan of Bexar County, Chairman, and Dr. E. F. Jarrell of Smith County, and W. M. Glenn of Angelina County, to be members of the Livestock Sanitary Board.

H. J. Lutch Stark of Orange County, Dr. K. H. Aynesworth of McLennan County, and L. J. Sulak of Fayette County, to be members of the Board of Regents of The University of Texas.

E. J. Kiest of Dallas County, to be Director of A. & M. College in place of P. L. Douns, Jr., whose term expired.

Respectfully submitted,
MIRIAM A. FERGUSON,
Governor.

Read and referred to Committee on Governor's Nominations.

To the Forty-third Legislature:

In that memorable debate before the Civil War with Hayne of South Carolina in the National Congress, Daniel Webster said:

"When the mariner has been tossed for many days in thick weather and on an unknown sea, he naturally avails himself of the first pause of the storm, the earliest glance of the sun, to take his latitude and ascertain how far the elements have driven him from his true course."

May we not, Gentlemen of the Forty-third Legislature, liken our position to this condition. For more than two years the people of the State of Texas, in line with the people of other states of the Nation, have been cast hither and thither upon the angry waves of financial

distress and destructive depression. Upon every hand we hear, now, the wail of the orphan, the cry of distress, the murmur of discontent and the protest of the unemployed. As the result of the trials and afflictions which have beset us, we behold the destruction of the values of homes in the country and the town and the cities. Debt and the attempt to collect has destroyed the morale of our people and the storm of foreclosure still rages around us, and nobody knows what the ending will be. The most valuable home in town, the most valuable home in the country have felt the shock of depression and they are today worthless in the markets of the country. Nearly every office building that has heretofore housed hundreds of employees at profitable wages are fast becoming empty and vacated, because of the ever-increasing burden of interest and taxes. If we go to the country the picture is worse, and travel in any direction for twenty-five miles and we will hardly find a residence that will turn the rain in time of storm, or keep the family dry.

Gentlemen of the Forty-third Legislature, you meet under these conditions and the people trust that there has come a pause in the storm and they look to you as a star of hope that may bring, at least, some relief from oppressions too grievous to bear.

You meet under unusual conditions. You perhaps have the most serious problems that ever confronted the Legislature of any state. Ordinary treatments will not solve the present situation. You must put on the armor of battle and gird up your loins in the spirit of determination to do the needful, though it may call for action radical and unusual. Your duty will be no child's play. You must be at once resolved to do things that you never dreamed you would do as late as ten years ago.

It is with a personal desire for your cooperation in the success of the purpose for which the people have called us that I transmit to you today such suggestions which I hope will receive your prompt and earnest consideration. I'm not wedded to my plan to the extent that I will not gladly consider any viewpoint that you may advance. What

I shall recommend to you in accordance with my duty under the law, shall be with a hope that it might receive your favorable approval in the absence of some better plan which you may advance. In accordance with the law which makes me the chief budget officer of the State, I transmit to you, herewith, six budget bills. They cover:

Appropriations for certain Eleemosynary Institutions.

Departmental Appropriation.

Educational Appropriation.

Judicial Appropriation.

Emergency Appropriation.

Rural School Appropriation.

You will observe that appropriations for these purposes in these bills show a reduction over the biennium of 1932 and 1933 of \$8,494,405 for the fiscal year 1934, and \$6,612,319 for the fiscal year 1935, making a total reduction proposed of \$15,106,724 for the next biennium.

An examination of the Comptroller's records discloses that the total State deficit at the end of the last fiscal year, August 31, 1932, was as follows:

General revenue deficit	\$ 1,602,370.85
Available school deficit	4,234,607.73
Confederate Pension deficit	2,825,881.46
Total State deficit	
Aug. 31, 1932.....	\$ 8,662,860.04

On January 1, just past, the total State deficit will be as follows:

General revenue deficit	\$ 4,500,800.34
Available School deficit	3,889,543.93
Confederate Pension deficit	3,558,870.32

Making the total State deficit as of January 1, just past\$11,949,214.59

The serious question that then confronts us is how to pay this debt and put these funds upon a cash basis, and restore the credit of the State.

Let me go further and give further figures to show how large the

task is. If we would pay our debts and run the government and keep the school apportionment at seventeen dollars and a half, and discharge our duties to the Confederate pensioners, we find (taking the last fiscal year as a basis of our necessities) that we must provide as follows:

For general revenue	
ad valorem fund....	\$13,535,563.48
For available school	
ad valorem fund....	21,714,264.96
For Confederate Pension deficit	2,183,053.29
Total	\$37,352,881.73
To this must be added the deficit accruing at the end of the last fiscal year, August 31, 1932, of	\$ 8,662,860.04

Making a total of \$46,015,741.77 to be provided for.

How to raise and pay this sum is the task which confronts this administration.

I propose the following: For the first fiscal year ending August 31, 1934, that we reduce the appropriations for the last biennium in the sum of \$8,494,405 and in the budget bills herewith enclosed I have indicated how and where this reduction can be effected.

Taking this reduction from the above total requirements of \$46,015,741.77 it will leave \$37,521,336.77 to be raised. To collect this sum under the plan hereinafter recommended, I have added 4 per cent for collection fees, or \$1,508,534.70 making a grand total sum of \$39,029,871.49 to be provided to restore the credit of the State and pay its debt, and run the government.

If we continue the present plan of taxes upon real estate, commonly known as ad valorem taxes, it would exceed the constitutional limit and under present conditions it would not be paid, only in part. The present total deficit of \$11,949,214.59 is ample warning to us of how uncertain it will be to depend upon ad valorem taxes to meet our needs in the future. We had just as well face the problem seriously and recognize that real estate values upon which ad valorem taxes are based

are fast slipping, and the ability of the people who own real estate to further pay ad valorem taxes is becoming almost an impossibility. Under present conditions, school funds are being cut down, official salaries are not paid, and if something heroic is not done, then Texas must face a deplorable condition.

I have given much thought to our problems and I have called in the advice of those I considered competent and reliable to counsel with me on how to pay our debts, maintain our credit, and in truth and in fact, how to "balance the budget." This term of balancing the budget, boiled down to every-day language, means the problem of how to pay for what you get and keep out of debt.

I have decided to recommend to the Legislature the passage of what is known as the Sales Tax upon commercial purchases. I am transmitting a copy of the Law, which I have had prepared, to the Senate for its information, and another copy of the Law to the House of Representatives where all bills for revenue must originate. I trust that this law, as proposed, will receive your careful study and consideration. If any better plan can be proposed, I welcome it; but I think the burden should fall upon those who oppose the law to offer a better plan in specific terms before my recommendations are rejected.

Really and truly, this is a time for affirmative action and not officious objection.

Let us see how my proposition might work out. The Department of Commerce of the Federal Government estimates that the net commercial sales in Texas for the year 1929 were \$2,074,164,554. It will be remembered that that year was one of reasonable prosperity and the abilities of the Texas people to purchase were very different from present conditions. For certainty of calculation, I am assuming that this stupendous sum of over two billion dollars will be decreased to \$1,500,000,000 or a reduction in round numbers of 25 per cent. In the natural order of things I am frank to say there is some uncertainty as to the total amount of purchases, by the Texas people, and a liberal rate must be levied in order to obtain sufficient taxes to meet all the

obligations of the State Government. If we collected too little it would lead to confusion and disappointment and financial distress; whereas, if we collected a few million too much, it could be used in reducing the next year's appropriation. Therefore, I suggest a tax of 3 per cent on all commercial sales, with but few exemptions, and I invite your special attention to the schedule in the Law which I send to you. The results then would be approximately as follows: 3 per cent on \$1,500,000,000 purchases or a collection of \$45,000,000 for the fiscal year ending August 31, 1934. However, I suggest that the Law be made effective at once in order that we may begin to pay our deficit of nearly \$12,000,000 and meet the pressing expenses of administration. If we deduct from this \$45,000,000 of gross receipts the amount above mentioned for General Revenue, School Ad Valorem, and Confederate Pension of \$39,029,871.47, we would have a surplus of \$5,970,129 which would represent a surplus in the Treasury; but, as I said before, we had better provide for a collection of an ample amount rather than for an insufficient amount which would not enable us to balance the budget.

Of course, I admit that this plan of taxation is an unusual departure from the beaten paths heretofore followed, but for reasons above stated, present laws will not meet the situation and financial disaster must be the result if they are persisted in. The recommendation which I make pre-supposes an average tax of \$39 on 1,000,000 families in Texas. It would range, of course, from the small purchases of \$400 on the small wage earner or farmer to \$5,000 of the well-to-do people of the country. It would represent a tax of 3 per cent on \$400 minimum, or \$12 to \$150 on the purchase of \$5,000 for the rich and well-to-do families. Really, the tax would not be burdensome. With a population in round numbers of 6,000,000 people in Texas and the entire \$45,000,000 which the 3 per cent tax would yield, it would be an average of only \$7.50 per capita.

If it be urged that this tax might fall heavily on the poor, let me say that by this plan we could keep the schools open on a full \$17.50 apportionment and, while the small

family would pay a minimum of \$12 and certainly not more than \$24, the government would hand back to the family \$17.50 per student in school service and an average of \$2.50 in free text books or \$20 in return, for each child in the family and for the average of three children it would be \$60 that the government would return in lieu of the tax of \$12 or \$24 as the case might be. This tax will be paid as purchases are made. They will be collected by the merchant who will, of course, pass the tax on to the purchaser. And there is no denial that it will be a tax on the people. However, I want to impress that it will not be an additional tax, but it will be a substitute tax which we are now unable to pay. It has been provided in the Law which I send you that the sales tax shall take the place of present ad valorem taxes.

Another advantage from this law will be that it will solve the trouble already uppermost in the minds of the taxing authorities, where to get the additional revenue that has been provided for by a constitutional amendment for exemption of \$3,000 homestead values.

It would not only relieve the homes, but would relieve all real estate of State ad valorem taxes. If it be urged that it amounts to an exemption of large real estate holders, let me say that this only relieves only State ad valorem taxes and leaves all real estate subject to city and county taxes as now provided by law, a burden already impossible to bear.

In addition to this it will leave all taxes now collected by law other than ad valorem taxes in force and effect and it will leave the gasoline tax in possession of sufficient funds to pay the road bond indebtedness of the various counties of the State without serious impairment to the operation of the Highway Department.

The principle of the sales tax is not a new idea to Texas in any sense of the word. We now collect a gasoline tax which is nothing but a sales tax. We collect a cigarette tax which is a sales tax. No informed person would repeal these taxes and the sales tax law is just an expansion of the same principles which we have tried with success.

The person who is not able to buy much does not have to pay much tax. If the farmer would produce his living on the farm he would not have to pay but little or no tax, but if people are prosperous and able to make extensive purchases of merchandise they pay the tax to the merchant with the price of the goods and same is remitted to the government every month, and if we will inaugurate the law in Texas we will soon be on the Old Alcala Roberts Plan of pay as you go. It will relieve us from this awful expense of collecting delinquent taxes now estimated to be 20 per cent and relieve us of the never ending discussion of inequality of equalization values in the different counties of the State. I trust that the Sales Tax, along the lines which I have suggested, be given favorable and official approval.

MIRIAM A. FERGUSON,
Governor.

Senate Simple Resolution No. 20.

Senator Purl sent up the following resolution:

Amend Senate Rules No. 80 to read as follows:

Rule 80. "Nominations shall be consider in executive session only, but the vote on the individual or individuals as the case may be, shall be in open Senate and the yeas and nays on confirmation shall be recorded in the Senate Journal as a part of the day's proceedings."

PURL.

Read and referred to Committee on Rules.

Adjournment.

On motion of Senator Holbrook, the Senate, at 3:08 o'clock p. m., adjourned until 10 o'clock tomorrow morning.

APPENDIX.

Petitions and Memorials.

(Telegram)

Received at Capitol Station, Austin, Texas.

Jan. 18, 1931.

Hon. Bob Barker, Secy. State Senate, Austin, Texas.

My sincere appreciation of the resolution and your letter accom-

panying it is unbounded. When we are halted on this old road of life by illness or calamity there is no joy so supreme as the rallying of the friends we have made along the way giving us their unselfish and unstinted encouragement and good will. I am well over the hill and will soon be back amongst you. No man ever loved his friends better than I or strove harder to make himself worthy of their confidence and esteem. Please convey to them all my gratitude for this expression of interest and good will.

CLAUDE POLLARD.

SEVENTH DAY.

Senate Chamber,
Austin, Texas,
January 19, 1933.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Pace.
Blackert.	Parr.
Collie.	Patton.
Cousins.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodward.
Oneal.	

Absent—Excused.

Greer. Woodul.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Fellbaum.

Petitions and Memorials.

(See Appendix)

Bills and Resolutions.

By Senator Woodward:

S. B. No. 47, A bill to be entitled "An Act to amend Article 955 of the Revised Criminal Statutes of Texas

of 1925, as amended by H. B. 406, Chapter 257, General and Special Laws of the Regular Session of the Forty-first Legislature, as amended by H. B. 179, Chapter 304, General and Special Laws of the Regular Session of the Forty-second Legislature, prohibiting the sale of fish taken from fresh water streams of certain named counties, and also providing means and methods of taking and possessing of fish from fresh waters of said counties, and by adding the name of the county of Tom Green to said list of counties, and declaring an emergency."

Read and referred to Committee on Criminal Jurisprudence.

By Senator Moore:

S. B. No. 48, A bill to be entitled "An Act further prescribing the powers and duties of the Railroad Commission of Texas in respect to the conservation of oil and gas and the regulation of the production, storage and transportation thereof; further defining waste, regulating and prohibiting the same as relates to crude petroleum oil and natural gas, prohibiting the production, transportation, storing or use of crude petroleum oil and/or natural gas under conditions as to constitute waste, providing that waste shall not be construed to mean economic waste and prohibiting the taking into consideration of market demand as an element of waste, providing that this Act shall not be construed as to prevent storage of oil except to prevent physical waste, authorizing the curtailing of production in order to prevent waste, amending Article 6008 of the Revised Civil Statutes of 1925, prohibiting the wasting of gas by escape and requiring the confinement thereof under the terms and conditions of said Article and affixing a penalty for its violation; amending Article 6036 of the Revised Civil Statutes of 1925, as amended by Section 4 of Chapter 313 Acts of the Regular Session of the Forty-first Legislature providing for additional penalties to those which might be imposed by the Commission for the violation of its orders and authorizing suit to collect the penalty by the Attorney General in the name of the State of Texas; giving the Railroad Commission the power through the Attorney General to institute suits